



# OPINION

The sole issue presented for review is whether the appellant is entitled to have the judgment of this Court vacated and reinstated to permit the filing of an application for permission to appeal in the supreme court. The trial court found counsel did not file an application for permission to appeal, and counsel failed to advise the appellant he was not going to file an application for permission to appeal on his behalf. The State of Tennessee confesses error. The state agrees this Court should vacate its judgment and reinstate it so the appellant can file an application for permission to appeal.

The judgment entered on September 15, 1993, in State v. Derrick Johnson, Shelby County No. 02-C-01-9302-CR-00016 (Tenn. Crim. App., Jackson, September 15, 1993), is hereby vacated and reinstated. The appellant will have sixty (60) days from the date this opinion is filed to prepare and file an application for permission to appeal in the supreme court.

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JOE B. JONES, PRESIDING JUDGE

CONCUR:

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JOHN H. PEAY, JUDGE

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JOE G. RILEY, JUDGE